

outpatient counseling services through a variety of residential treatment settings including acute detoxification, short-term intensive residential treatment, long-term therapeutic residential treatment, and long-term recovery houses. Appropriate treatment is determined with the involvement of a State licensed or certified addiction professional on the basis of a detailed assessment of the individual's presenting symptomatology, psychosocial profile, and other relevant factors. This assessment may lead to a determination that more than one treatment modality is appropriate for the individual. The treatment will be provided or overseen by an approved institution or facility. This treatment may include (but is not limited to)—

- (a) Medical examination and medical management;
- (b) Detoxification;
- (c) Medication management to include substitution therapy (e.g., methadone);
- (d) Psychiatric, psychological, psychosocial, vocational, or other substance abuse counseling in a residential or outpatient treatment setting; or
- (e) Relapse prevention.

[60 FR 8151, Feb. 10, 1995]

**§ 416.938 What we mean by approved institutions or facilities.**

Institutions or facilities that we may approve include—

- (a) An institution or facility that furnishes medically recognized treatment for drug addiction or alcoholism in conformity with applicable Federal or State laws and regulations;
- (b) An institution or facility used by or licensed by an appropriate State agency which is authorized to refer persons for treatment of drug addiction or alcoholism;
- (c) State licensed or certified care providers;
- (d) Programs accredited by the Commission on Accreditation for Rehabilitation Facilities (CARF) and/or the Joint Commission for the Accreditation of Healthcare Organizations (JCAHO) for the treatment of drug addiction or alcoholism;
- (e) Medicare or Medicaid certified care providers; or

(f) Nationally recognized self-help drug addiction or alcoholism recovery programs (e.g., Alcoholics Anonymous or Narcotics Anonymous) when participation in these programs is specifically prescribed by a treatment professional at an institution or facility described in paragraphs (a) through (e) of this section as part of an individual's treatment plan.

[60 FR 8151, Feb. 10, 1995]

**§ 416.939 How we consider whether treatment is available.**

Our determination about whether treatment is available to you for your drug addiction or your alcoholism will depend upon—

- (a) The capacity of an approved institution or facility to admit you for appropriate treatment;
- (b) The location of the approved institution or facility, or the place where treatment, services or resources could be provided to you;
- (c) The availability and cost of transportation for you to the place of treatment;
- (d) Your general health, including your ability to travel and capacity to understand and follow the prescribed treatment;
- (e) Your particular condition and circumstances; and
- (f) The treatment that is prescribed for your drug addiction or alcoholism.

[60 FR 8151, Feb. 10, 1995]

**§ 416.940 Evaluating compliance with the treatment requirements.**

(a) *General.* Generally, we will consider information from the treatment institution or facility to evaluate your compliance with your treatment plan. The treatment institution or facility will—

- (1) Monitor your attendance at and participation in treatment sessions;
- (2) Provide reports of the results of any clinical testing (such as, hematological or urinalysis studies for individuals with drug addiction and hematological studies and breath analysis for individuals with alcoholism) when such tests are likely to yield important information;
- (3) Provide observational reports from the treatment professionals

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familiar with your individual case (subject to verification and Federal confidentiality requirements); or

(4) Provide their assessment or views on your noncompliance with treatment requirements.

(b) *Measuring progress.* Generally, we will consider information from the treatment institution or facility to evaluate your progress in completing your treatment plan. Examples of milestones for measuring your progress with the treatment which has been prescribed for your drug addiction or alcoholism may include (but are not limited to)—

(1) Abstinence from drug or alcohol use (initial progress may include significant reduction in use);

(2) Consistent attendance at and participation in treatment sessions;

(3) Improved social functioning and levels of gainful activity;

(4) Participation in vocational rehabilitation activities; or

(5) Avoidance of criminal activity.

[60 FR 8151, Feb. 10, 1995]

### **§ 416.941 Establishment and use of referral and monitoring agencies.**

We will contract with one or more agencies in each of the States and the District of Columbia to provide services to individuals whose disabilities are based on a determination that drug addiction or alcoholism is a contributing factor material to the determination of disability (as described in § 416.935) and to submit information to us which we will use to make decisions about these individuals' benefits. These agencies will be known as referral and monitoring agencies. Their duties and responsibilities include (but are not limited to)—

(a) Identifying appropriate treatment placements for individuals we refer to them;

(b) Referring these individuals for treatment;

(c) Monitoring the compliance and progress with the appropriate treatment of these individuals; and

(d) Promptly reporting to us any individual's failure to comply with treatment requirements as well as failure to

achieve progress through the treatment.

[60 FR 8152, Feb. 10, 1995]

### **RESIDUAL FUNCTIONAL CAPACITY**

### **§ 416.945 Your residual functional capacity.**

(a) *General.* Your impairment(s), and any related symptoms, such as pain, may cause physical and mental limitations that affect what you can do in a work setting. Your residual functional capacity is what you can still do despite your limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c), and (d) of this section. Residual functional capacity is an assessment based upon all of the relevant evidence. It may include descriptions (even your own) of limitations that go beyond the symptoms, such as pain, that are important in the diagnosis and treatment of your medical condition. Observations by your treating or examining physicians or psychologists, your family, neighbors, friends, or other persons, of your limitations, in addition to those observations usually made during formal medical examinations, may also be used. These descriptions and observations, when used, must be considered along with your medical records to enable us to decide to what extent your impairment(s) keeps you from performing particular work activities. This assessment of your remaining capacity for work is not a decision on whether you are disabled, but is used as the basis for determining the particular types of work you may be able to do despite your impairment(s). Then, using the guidelines in §§ 416.960 through 416.969a, your vocational background is considered along with your residual functional capacity in arriving at a disability determination or decision. In deciding whether your disability continues or ends, the residual functional capacity assessment may also be used to determine whether any medical improvement you have